IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3141 OF 2005

Pioneer Publicity Corporation. .. Petitioner
v/s.
Mah.State Road Development Corporation
& ors. .. .. Respondents

Mr.Mr.D.S.Chopda W.N.Yande i/by Bina Rao for petitioner.

Mr.R.M.Sawant, GP for res.No.1.

Mr.Rajiv Narula with Mr.Anuj Narulla i/by Jahangiani-Narulla & Associates for res.No.2.

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**CORAM : H.L. GOKHALE &**
**ABHAY S. OKA, JJ.**

**DATED : 17th January 2006**

**P.C. :**

1. Heard the learned Counsel for the parties.

2. The 1st respondent to this Petition is a Public Sector Undertaking and carrying on activities of development of roads, flyovers, highways, expressways etc. The 1st respondent with a view to raise its revenue is displaying advertisements at various locations. Amongst others it has set up kiosks on electric poles on flyovers in the city of Mumbai. The 1st respondent advertised and invited tenders from the parties in the business of outdoor advertising. The petitioner herein was one of the applicants.

Its bid for the period of three years starting from 1st January 2006 was rejected, whereas that of respondent No.2 was accepted. Being aggrieved by that decision, this Petition has been filed.

3. As far as the petitioner is concerned, its bid was rejected principally for the reason that as against the requirements of giving one bid the petitioner had given two bids, though they were given in one envelope itself. As far as one bid therein was concerned, a figure of Rs.3,00,22,400/- was mentioned. The break up thereof was given and the total was Rs.3,00,22,400/-. The other document had similar break up, the total of which went to over Rs.Four Crores but all those entries were scored out and at the bottom the figure of Rs.3,00,22,400/- was again written by hand. In view of this alteration and discrepancy, the petitioner's bid came to be rejected.

4. The grievance of the petitioner is that the petitioner's bid was wrongly rejected whereas that of respondent No.2 was wrongly accepted. On rejection of the petitioner's bid, it is stated by Mr.Yande and Mr.Chopda appearing for the petitioner that there may be certain corrections

but ultimately the figure was one and the same. Therefore, respondent No.1 should not have been too technical to reject the bid. The Counsel for the petitioner points out that if this was the difficulty with respect to the petitioner then respondent No.2's bid should also have been rejected on the same ground. It is submitted that the business of respondent No.2 is run by one Neeta Gulati who is the daughter-in-law of one Abha Gulati and this Abha Gulati had given another tender. It is submitted that there is a cartel of both of this daughter-in-law and the mother-in-law and that respondent No.2 should have sent through it.

5. As against this submission of the petitioner, Mr.Sawant, learned Government Pleader appearing for respondent No.1, has defended the decision by stating that it is not possible for respondent No.1 to go behind the application and find out as to who is related to whom and in what way. The application of respondent No.2 and the application given by Aba Gulati were the applications by two separate entities.

6. Mr.Narula appearing for respondent No.2 has also defended the decision and has submitted

that respondent No.2 did have the adequate experience and did have the necessary turnover.

7. We have considered the submissions of the Counsel for the petitioner as well as for the respondents. In our view, no fault can be found with the decision of the 1st respondent. The 1st respondent cannot be expected to find out the relations between the proprietors of the applicants concerned. They are separate legal entities. As far as the claim of the petitioner is concerned, surely when two forms were given and the total of the various items in one form was going over Rs.Four Crores and certain corrections were made to bring it down to Rs.3,00,22,400/-, no fault can be found with respondent No.1 in rejecting its bid.

8. During the course of the discussion of this matter, what we have noted is that whereas the bid of the petitioner was for an amount of Rs.3,00,22,400/-, the one which is accepted from respondent No.2 was for Rs.2,27,50,200/-. There is a substantial gap between the two figures. Having noted this, Ms.Neeta Gulati, the proprietress of respondent No.2 has filed an affidavit stating that unilaterally she is ready

to revise the bid which has been accepted in her favour by the 1st respondent. She has filed an affidavit in which she has stated that she is revising and enhancing the financial bid as under:-

> " .... I revise and enhance the financial bid as under:-
>
> a) Additional Rs.10 lakhs for the period 1.7.2006 till 31.12.2006.
>
> b) Additional Rs.25 lakhs for the year 2007 i.e. from 1.1.2007 to 31.12.2007.
>
> c) Additional Rs.25 lakhs for the year 2008 i.e. from 1.1.2008 to 31.12.2008. "

In our view, that takes away the rigour of the large gap between the two proposals. The 1st respondent-Road Transport Corporation will enter into the necessary corrigendum to the earlier contract to record the modified terms of the contract.

9. Mr.Chopda appearing for the petitioner stated during the course of the hearing that the

petitioner is ready to revise its offer to Rs.Four Crores. It is not possible for us to go into such an aspect at this stage. Therefore, we are not interfering with the contract on that basis.

10. In view of the above, the Petition is rejected.

11. We have granted the order of status quo in this matter. Mr.Chopda makes a request that the order of status quo may be extended for a further period of four weeks. Request is rejected.

**(H.L. GOKHALE, J.)**

**(ABHAY S. OKA, J.)**